UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,376	07/26/2001	Kazuo Higashi	1560-0362P-SP	5053

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/912,376	HIGASHI ET AL.
	Examiner	Art Unit	
	Beth Van Doren	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>03 January 2006</u>.
2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-25</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-25</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20030623</u>.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____ .

DETAILED ACTION

1.   The following is a Final office action in response to communications received

01/03/2006. Claims 1, 5, 10, 15, and 17 have been amended. Claims 1-25 are pending.

Response to Amendment

2.   Applicant's amendments to the abstract are sufficient to overcome the specification

objections set forth in the previous office action.

3.   Applicant's amendment to claim 1 is sufficient to overcome the claim objections set forth

in the previous office action.

4.   Applicant's amendments to claims 5, 10, and 15 are sufficient to overcome the 35

U.S.C. § 112, second paragraph, rejections set forth in the previous office action. "Deduct" in at

least claim 19 is also interpreted in this manner.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-4, 17-18, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mitsuoka et al. (U.S. 6,466,914).

        As per claim 1, Mitsuoka et al. teaches a remuneration calculating method for calculating

remuneration of workers who have made a labor agreement with an enterprise entity, comprising

the steps of:

dividing work into job units to be executed by one or a plurality of persons (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein the job is divided into units, such as words);

setting a base appraisal point for quantitatively appraising each of the job units (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein a base point is set to appraise completion of job units);

giving each worker an appraisal point which represents whole or some amount of a base appraisal point set for each job unit, according to an accomplished ratio of the job unit (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein an appraisal point is set for workload to complete each day, according to an accomplishment ratio. For example, if 15000 words are needed to complete a job, then 3000 must be completed at a minimum per day);

determining a conversion rate for converting an appraisal point to a monetary value (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein a conversion rate (i.e. basic fee and surcharge rate) is determined); and

calculating remuneration of each worker by converting an appraisal point given to the worker based on the conversion rate (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein remuneration is calculated based on completion).

As per claim 2, Mitsuoka et al. teaches accepting input of the job unit and base appraisal point which were proposed by the worker and approved by an approver appointed beforehand (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein the job conditions are accepted by both parties before work begins).

As per claim 3, Mitsuoka et al. teaches accepting input of the base appraisal point which was set based on a present operation value representing an operation value at present (See column 8, lines 6-20, 30-50, and line 64-column 9, line 25, column 11, line55-column 12, line 20, wherein the contractor accepts the base point input as the operation value).

As per claim 4, Mitsuoka et al. discloses assuming an operation value at a specific time point in the future as a future operation value, converting the assumed future operation value to a present operation value representing an operation value at present, and accepting input of the base appraisal point which was set based on the present operation value (See column 12, lines 1-32, wherein an operation value at a point in the future is known (i.e. 15000 words completed on a specific date), this future value converted to a present value (i.e. deciding 3000 words must be completed today to meet this future value)).

As per claim 17, Mitsuoka et al. teaches a remuneration calculating apparatus for calculating remuneration of workers who have made a labor agreement with an enterprise entity, comprising:

means for accessing a work database in which information about work is recorded in conjunction with an appraisal point indicating an appraised value of work (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein a database stores information concerning a contract job, such as appraised value of work);

means for accessing an operating-performance database in which information about operating performance of the enterprise entity is recorded in conjunction with a conversion rate for converting an appraised point to a monetary value (See column 8, lines 5-25 and 35-50, and

column 12, lines 1-32. Operating performance and conversion rate (i.e. basic fee and surcharge

rate) are determined and stored, accessible by the contractor);

means for accepting input of a job unit given by dividing work, a base appraisal point set

for the job unit, and worker's information indicating a worker assigned the job unit (See column

8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein the input is accepted. See figures 1-

2, 5, column 6, lines 25-45, wherein contractor information is stored);

means for recording the accepted job unit, base appraisal point and worker's information

in conjunction with each other in said work database (See column 8, lines 5-25 and 35-50, and

column 12, lines 1-32, wherein the input is accepted. See figures 1-2, 5, 26, column 6, lines 25-

45, wherein contractor information is stored);

means for accepting input of an accomplishment status value indicating an accomplished

ratio of the job unit (See figures 16-19, column 8, lines 5-25 and 35-50, and column 12, lines 1-

32, wherein accomplishment status is indicated by a completion ratio. For example, if 15000

words are needed to complete a job, then 3000 must be completed at a minimum per day);

means for calculating an appraisal point based on the accepted accomplishment status

value and base appraisal point (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32,

wherein an appraisal point is set for workload to complete each day, according to an

accomplishment ratio);

means for recording the calculated appraisal point in conjunction with the worker's

information in said work database (See figures 16-19, column 8, lines 5-25 and 35-50, and

column 12, lines 1-32, wherein a conversion rate (i.e. basic fee and surcharge rate) is

determined);

means for determining a conversion rate based on the information recorded in said

operating-performance database (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32,

wherein a conversion rate (i.e. basic fee and surcharge rate) is determined); and

calculating means for calculating remuneration of the worker based on the conversion

rate and appraisal point (See column 8, lines 5-25 and 35-50, and column 12, lines 1-32, wherein

remuneration is calculated based on completion).

Claims 18 and 25 recite equivalent limitations to claims 4 and 17, respectively, and are

therefore rejected using the same art and rationale set forth above.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

8.   Claims 5-16 and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Mitsuoka et al. (U.S. 6,466,914) in view of Swart (U.S. 6,347,306).

As per claim 5, Mitsuoka et al. discloses calculating an interim remuneration from the

conversion rate and appraisal point (See figures 16-18, column 12, lines 1-40, wherein a daily

remuneration can be calculated using a conversion rate (i.e. base rate) and an appraisal point

(daily work expected));

comparing the calculated interim remuneration and a first predetermined value (See figures 16-18, column 12, lines 1-40, wherein the interim remuneration is compared against a tiers);

determining a monetary value for adjustment which has been prepared, if the calculated interim remuneration is lower than the first predetermined value (See figures 16-18, column 12, lines 1-40, wherein a surcharge rate is used to determine a monetary value, wherein the worker is in a first tier rather than a second tier);

calculating remuneration of the worker by adding the created value to the interim remuneration (See figures 16-18, column 12, lines 1-40, wherein the surcharge monetary value is added to the daily remuneration).

However, while Mitsuoka et al. discloses other predetermined values for comparison with the interim remuneration, Mitsuoka et al. does not expressly disclose and Swart discloses:

comparing the calculated interim remuneration and a second predetermined value which is not lower than the first predetermined value (See figures 16-18, column 12, lines 1-40, wherein the interim remuneration is compared against a second tier/maximum allowed daily workload);

increasing the monetary value for adjustment, if the calculated interim remuneration is higher than the second predetermined value (See column 6, lines 45-65, column 9, line 45-column 10, line15, wherein the interim value is compared against a max); and

calculating remuneration of the worker by deducting the increased value from the interim remuneration (See column 6, lines 45-65, column 9, line 45-column 10, line 15, wherein the worker is docketed pay based on the maximums allowed).

Both Mitsuoka et al. and Swart disclose systems that compensate workers for work performed. Mitsuoka et al. specifically discloses a payment scheme in column 12, line 1-32, that takes into account daily (interim) remuneration, this daily amount compared to daily predetermined values such as daily maximums. Swart discloses a worker being docketed pay based on the maximums allowed. Therefore, it would have been obvious to include a second predetermined value that accounts for pay docketed from the worker in order to increase the accuracy of paying employees by ensuring the employee is paid in a accurate and timely manner. See column 6, lines 1-15, and column 12, lines 15-30, of Swart and column 8, lines 35-50, and column 12, line 1-32, of Mitsuoka et al., both of which are concerned with fairly paying the worker.

As per claim 6, Mitsuoka et al. discloses paying a worker, who is a contract employee employed by an enterprise, based on work completed (See column 2, lines 45-67, column 6, lines 25-31, column 12, lines 1-32). However, Mitsuoka et al. does not disclose and Swart discloses calculating a debt-credit relationship between the enterprise entity and the worker (See column 6, lines 54-66, column 7, lines 8-20 and 40-47, column 11, lines 49-65, wherein there is a debit-credit relationship with the place of employment); and

creating a balance sheet of the worker to the enterprise entity after adjusting the calculated debt-credit relationship by using the monetary value for adjustment (See column 6, lines 54-66, column 7, lines 8-20 and 40-47, column 11, lines 49-column 12, line 5, wherein the worker can see itemized the deductions, the credits, and money earned).

Both Mitsuoka et al. and Swart disclose systems that compensate workers for work performed. Mitsuoka et al. specifically discloses a payment scheme in column 12, line 1-32. It

would have been obvious to one of ordinary skill in the art at the time of the invention to

transmit this payment to the contract employee using a debt-credit relationship in order to

increase the efficiency of paying employees by ensuring the employee is paid in a timely

manner. See column 6, lines 1-15, and column 12, lines 15-30, of Swart and column 8, lines 35-

50, and column 12, line 1-32, of Mitsuoka et al., both of which are concerned with fairly paying

the worker.

As per claim 7, Mitsuoka et al. discloses calculating a monetary value of the

accomplished job unit and calculating earnings of the worker to the enterprise entity for a

predetermined term, based on the calculated monetary value (See column 8, lines 5-25, and

column 12, lines 1-32). However, Mitsuoka et al. does not expressly disclose calculating

expenses that were needed for accomplishing the job unit or creating a profit and loss statement

of the worker to the enterprise entity based on the calculated expenses and monetary value.

Swart discloses calculating expenses that were needed for accomplishing the job unit

(See column 6, lines 51-column 7, line, wherein expenses are determined and used in calculating

pay) and creating a profit and loss statement of the worker to the enterprise entity for a

predetermined term, based on the calculated expenses and monetary value (See column 6, lines

51-column 7, line, wherein expenses are determined and used in calculating pay. See column 7,

lines 32-47, column 11, lines 49-column 12, line 5, wherein the worker can see itemized the sum

of expenses and income for a time period).

Both Mitsuoka et al. and Swart disclose systems that compensate workers for work

performed. Mitsuoka et al. specifically discloses a payment scheme in column 12, line 1-32. It

would have been obvious to one of ordinary skill in the art at the time of the invention to

consider expenses when determining payment of a contract employee to increase the efficiency of paying employees by ensuring the employee is paid in an accurate timely manner. See column 6, lines 1-15, and column 12, lines 15-30, of Swart and column 8, lines 35-50, and column 12, line 1-32, of Mitsuoka et al., both of which are concerned with fairly paying the worker.

Claims 8, 9, 10, 11, 12, 13, 14, 15, and 16 recite equivalent limitations to claims 3, 4, 5, 6, 2, 3, 4, 5, and 6, respectively, and are therefore rejected using the same are and rationale as applied above.

As per claim 19, Mitsuoka et al. discloses:

paying a worker, who is a contract employee employed by an enterprise, based on work completed (See column 2, lines 45-67, column 6, lines 25-31, column 12, lines 1-32);

means for calculating an interim remuneration from the conversion rate and appraisal point (See figures 16-18, column 12, lines 1-40, wherein a daily remuneration can be calculated using a conversion rate (i.e. base rate) and an appraisal point (daily work expected));

means for comparing the calculated interim remuneration and a first predetermined value (See figures 16-18, column 12, lines 1-40, wherein the interim remuneration is compared against a tiers);

means for deducting (i.e. determining) a monetary value for adjustment which has been prepared, if the calculated interim remuneration is lower than the first predetermined value (See figures 16-18, column 12, lines 1-40, wherein a surcharge rate is used to determine a monetary value, wherein the worker is in a first tier rather than a second tier);

means for calculating remuneration of the worker by adding the deducted value to the

interim remuneration (See figures 16-18, column 12, lines 1-40, wherein the surcharge monetary

value is added to the daily remuneration).

However, Mitsuoka et al. does not expressly disclose and Swart discloses:

means for accessing a debt-credit database in which a debt-credit relationship between

the enterprise entity and the worker is recorded (See column 6, lines 54-66, column 7, lines 8-20

and 40-47, column 11, lines 49-column 12, line 5, wherein the debits and credits are stored in the

system in real time and the values are used when calculating compensation for the worker);

comparing the calculated interim remuneration and a second predetermined value which

is not lower than the first predetermined value (See figures 16-18, column 12, lines 1-40,

wherein the interim remuneration is compared against a second tier/maximum allowed daily

workload);

increasing the monetary value for adjustment, if the calculated interim remuneration is

higher than the second predetermined value (See column 6, lines 45-65, column 9, line 45-

column 10, line15, wherein the interim value is compared against a max); and

calculating remuneration of the worker by deducting the increased value from the interim

remuneration (See column 6, lines 45-65, column 9, line 45-column 10, line 15, wherein the

worker is docketed pay based on the maximums allowed).

Both Mitsuoka et al. and Swart disclose systems that compensate workers for work

performed. Mitsuoka et al. specifically discloses a payment scheme in column 12, line 1-32, that

takes into account daily (interim) remuneration, this daily amount compared to daily

predetermined values such as daily maximums. Swart discloses a worker being docketed pay

based on the maximums allowed. Therefore, it would have been obvious to include a second

predetermined value that accounts for pay docketed from the worker in order to increase the

accuracy of paying employees by ensuring the employee is paid in a accurate and timely manner.

See column 6, lines 1-15, and column 12, lines 15-30, of Swart and column 8, lines 35-50, and

column 12, line 1-32, of Mitsuoka et al., both of which are concerned with fairly paying the

worker.

Claims 20, 21, 22, 23, and 24 recite equivalent limitations to claims 6, 7, 4, 19, and 20,

respectively, and are therefore rejected using the same are and rationale as applied above.

Response to Arguments

9.   Applicant's arguments, see pages 16-17, filed 01/03/06, with respect to the 35 USC § 101

rejections have been fully considered and are persuasive. Therefore, the 35 USC § 101

rejections of claims 1-16 and 25 have been withdrawn.

10.   Applicant's arguments with respect to the 35 USC § 102 rejections based on Swart (U.S.

6,347,306) and the 35 USC § 103 based on Swart and Koppelman et al. (U.S. 6,662,164) have

been considered but are moot in view of the new grounds of rejection, as necessitated by

amendment.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Finch et al. (U.S. 6,751,650) discloses monitoring contract performance to determine

wages and costs.

Musafia et al. (U.S. 2002/0038235) teaches monitoring production of an employee

related to wages, costs, and profits.

White et al. (U.S. 5,771,179) discloses productivity ratios determined in the completion

of a work product and maintaining employee payroll information.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd
March 13, 2006

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